

FILED

MAR 09 2016

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

David J. Bradley, Clerk of Court

In Re: ISALAH L. HARRIS Jr. and
LORETTA E. HARRISCase No. 08-33746-H1-13

Debtor(s).

§
§
§
§**Application for Payment of Unclaimed Funds
and Certificate of Service**

1. I am making application to receive \$ 16,087.68, which was deposited as unclaimed funds on behalf of SECURITY BENEFIT.
2. Applicant is entitled to receive the requested funds, has made sufficient inquiry and has no knowledge that any other party may be entitled to, and is not aware of any dispute regarding the funds at issued based upon the following (*check the statement(s) that apply*):
 - ☐ a. Applicant is the creditor/debtor named in paragraph 1, and the owner of the funds appearing on the records of this Court, as evidenced by the attached documents.
 - ☐ b. Applicant is the attorney in fact for the creditor/debtor named in paragraph 1, with authority to receive such funds, or who is authorized by the attached original Power of Attorney to file this application on behalf of the creditor/debtor.
 - ☐ c. Applicant is the assignee or successor-in-interest of the creditor/debtor named in paragraph 1, or the representative of the assignee or successor-in-interest, as evidenced by the attached documents establishing chain of ownership and/or assignment.
 - ☐ d. Applicant is a duly authorized corporate officer (if a corporation) or a general partner (if a partnership) and a representative of the creditor/debtor named in paragraph 1.
 - ☐ e. Applicant is the representative of the estate of the deceased creditor/debtor named in paragraph 1, as evidenced by the attached certified copies of death certificate and other appropriate probate documents substantiating applicant's right to act on behalf of the decedent's estate.
 - ☒ f. None of the above apply. As evidenced by the attached documents, applicant is entitled to these unclaimed funds because: Applicant is entitled to the subject funds because the funds were deposited to pay what was believed to be a legitimate debt of the estate. However Applicant has recently discovered based on discussions with Security Benefit, the alleged debt never in fact existed as to Security Benefit. As stated in a recent correspondence from Security Benefit **"the debtor's obligation to repay a plan loan is not a debt because the obligation is essentially a debt to the debtor and not to the plan."** The funds which were thought to have been borrowed from Security Benefit were actually borrowed from Mrs. Loretta Harris, the Applicant. (See January 29, 2016 Letter from Security Benefit attached as Exhibit A). Mrs. Harris, unbeknownst to her was both the debtor and the creditor in the

transaction. As such Mr. and Mrs. Harris now request that the Unclaimed Funds be released to either Mrs. Harris directly or to the Estate as the person/ entity with the only rightful interest in the funds.

3. I understand that pursuant to 18 U.S.C. § 152, I could be fined no more than \$5,000, or imprisoned not more than five years, or both, if I have knowingly and fraudulently made any false statements in this document or accompanying supporting documents. I further understand that any indications of fraud detected by the Court will be turned over to the U.S. Attorney for possible prosecution.
4. I declare under penalty of perjury under the laws of the United States of America that the foregoing statements and information are true and correct.

Dated:

Applicant's Signature

Applicant's Name: Isaiah L. Harris Jr.

Applicants Signature

Applicant's Name: Loretta E. Harris

Address: 3610 Blackberry Court

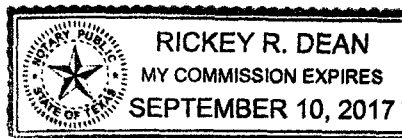
Missouri City, Texas 77459-7010

Phone: 713 446-0975

Subscribed and sworn before me this 4th day of March 2016.

[Signature]
Notary Public State of Texas,

My commission expires 5/10/2017



Attachments:

1. Letter to Security Benefit from Attorney Kenneth D. Terrell (January 20, 2016) with attachments. (9 pages)
2. Reply Letter from Security Benefit (January 29, 2016)
3. Proposed Order for payment of Unclaimed Funds
4. Copy of Current Driver's License (Loretta E. Harris and Isaiah L. Harris, Jr.)
5. Completed W-9 (Isaiah L. Harris Jr., and Loretta E. Harris)

Certificate of Service

I certify that on March 7, 2016, a true and correct copy of this application for payment of unclaimed funds was served by first class United States Mail on the following:

U.S. Attorney
1000 Louisiana, Suite 2300
Houston, TX 77002

Other: Attorney Emil Sargent
723 Main Street, Ste. 316
Houston, Texas 77002

U.S. Trustee
515 Rusk Ave., Ste. 3516
Houston, TX 77002



Signature

KENNETH D. TERRELL

ATTORNEY AT LAW

2601 CARTWRIGHT BLVD SUITE D, BOX 268

MISSOURI CITY, TEXAS 77549-2613

PH. 832-754-2634; FAX. 832 532 4626;

e-mail: kenneth@attorneykdterrell.com

January 20, 2016

SECURITY BENEFIT

P.O. BOX 750497

TOPEKA KANSAS 66675-0497

REF: CONTRACT NUMBER-13012232234, LORETTA E. HARRIS

LOAN DATED: 512306

DEAR CLIENT SREVICE SPECIALIST:

My name is Kenneth D. Terrell and I am the attorney for Mrs. Loretta E. Harris in this matter. Mrs. Harris is attempting to repay the subject loan under Contract Number 13012232234, but has been frustrated in her efforts by an issue which I hope collectively we can fashion a remedy to resolve. Mrs. Harris' loan went into default as a result of financial hardships suffered during calendar year 2008 which compelled her to file a Chapter 13 bankruptcy. While in bankruptcy Mrs. Harris listed Security Benefit as a creditor of the estate. However Security Benefit never filed a Proof of Claim with the bankruptcy court and as a result never received any payment from the estate.

Since Mrs. Harris included Security Benefit in her Chapter 13 Plan which was confirmed, regular payments were made into the courts registry for the benefit of Security Benefit. The current sum in the clerk's registry is now in excess of \$16,000.00 (sixteen thousand dollars). The actual sum may be verified by going to the home page of the United States District Court for the Southern District of Texas, Bankruptcy Court then scrolling to the bottom of the page to select Unclaimed Funds. This selection will lead to the U. S. Courts "Trial Balance of Treasury Registry Fund" (unclaimed funds), next scroll to page 211 and see entry DTXS808BK0336476. Attached for your review is a photocopy of the subject page.

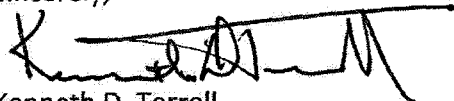
Also attached is correspondence between Mrs. Harris and the trustee for the Bankruptcy Court explaining that the subject funds can only be paid to Security Benefit and only after the trustee receive a Proof of Claim pursuant to the courts policies and procedures.

Mrs. Harris has a dilemma, she want to pay the Security Benefit loan in full using her personal funds plus the funds that she paid into the bankruptcy for the benefit of repaying the subject loan. However she cannot access the funds on deposit in the clerk's Registry because the funds are specifically earmarked for the benefit of Security Benefit. Further Security Benefit will not accept a partial payment from Mrs. Harris even though she is willing to pay the full balance of the loan less the amount now held in the Clerk's registry for the benefit of repaying the subject loan. Finally, I assume that filing a proof of Claim to accept the funds now on deposit in the Clerks registry would also constitute a partial payment and therefore may not be allowed, or acceptance of the funds may be disallowed for some other reason.

Mrs. Harris is seeking help in fashioning a remedy by which the entire balance of the subject loan may be repaid using money specifically designated for such purpose along with any additional funds necessary to pay the unpaid balance. We are seeking your assistance in this matter.

I may be reached at the subject telephone number, fax or e-mail address as I look forward to receiving your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kenneth D. Terrell', written over a horizontal line.

Kenneth D. Terrell

Attorney for Loretta Harris

3/9/2016 10:25 AM EDT

U.S. Courts
Trial Balance of Treasury Registry Fund

Version 7.0.2 Page 211 of

Case Number	Case Title	Case Balance	First Case		Last Case		Depository	Acct Type	Acct Number
			Trans Date	Trans Amt	Trans Date	Trans Amt			
Party Name	Debt Type	Current Balance	First Trans Date	Last Trans Date	Document Type/Number	Transaction Amount	Payee	Payee Amt Owed	
DTXS08BK033481	IMA JEAN LAWS	549.78	12/24/2013	01/10/2014	489.85	CORNERSTONE CREDIT	18.43	Treasury	T 604700
001	WILLIAM W HETTKAM TREASURY REGISTRY	549.78	12/24/2013	01/10/2014	489.85	CORNERSTONE CREDIT	18.43	Treasury	T 604700
DTXS08BK033534	AUGUSTINE OGISTE	3,049.21	03/21/2013	03/21/2013	3,049.21	HARRIS COUNTY WCID	3,049.21	Treasury	T 604700
001	DAVID G PEAKE TREASURY REGISTRY	3,049.21	03/21/2013	03/21/2013	3,049.21	HARRIS COUNTY WCID	3,049.21	Treasury	T 604700
DTXS08BK033584	PRISCILLA JEAN PEREZ	98.59	01/31/2014	01/31/2014	98.59	LAKEVIEW ESTATES A	175.41	Treasury	T 604700
001	WILLIAM W HETTKAM TREASURY REGISTRY	98.59	01/31/2014	01/31/2014	98.59	LAKEVIEW ESTATES A	175.41	Treasury	T 604700
DTXS08BK033593	SHEILA BELT	509.73	02/11/2013	02/11/2013	509.73	TIENPO FINANCE CO	98.59	Treasury	T 604700
001	DAVID G PEAKE TREASURY REGISTRY	509.73	02/11/2013	02/11/2013	509.73	TIENPO FINANCE CO	98.59	Treasury	T 604700
DTXS08BK033613	BRANDI GILMORE	674.41	02/11/2013	02/11/2013	674.41	SHEILA J BELT	509.73	Treasury	T 604700
001	DAVID G PEAKE TREASURY REGISTRY	674.41	02/11/2013	02/11/2013	674.41	SHEILA J BELT	509.73	Treasury	T 604700
DTXS08BK033620	SHAWN P SINGLETON	1,556.28	10/04/2013	10/04/2013	1,556.28	BRANDI N GILMORE	674.41	Treasury	T 604700
001	DAVID G PEAKE TREASURY REGISTRY	1,556.28	10/04/2013	10/04/2013	1,556.28	BRANDI N GILMORE	674.41	Treasury	T 604700
DTXS08BK033746	ISALAH HARRIS JR AND LORETTA HARRIS	17,189.31	07/08/2013	07/08/2013	17,189.31	RICEWOOD VILLAGE C	1,550.48	Treasury	T 604700
001	DAVID G PEAKE TREASURY REGISTRY	17,189.31	07/08/2013	07/08/2013	17,189.31	RICEWOOD VILLAGE C	1,550.48	Treasury	T 604700
DTXS08BK033812	RUBEN ED NEWTON	75.97	09/28/2010	09/28/2010	75.97	WORLD FINANCE CORP	5.80	Treasury	T 604700
001	RUBEN ED NEWTON TREASURY REGISTRY	75.97	09/28/2010	09/28/2010	75.97	WORLD FINANCE CORP	5.80	Treasury	T 604700
DTXS08BK033814	JOSE ANGEL AND MARIBEL DELEON	684.63	09/30/2011	09/30/2011	684.63	CHASE BANK	1,101.63	Treasury	T 604700
001	JOSE ANGEL MARI TREASURY REGISTRY	684.63	09/30/2011	09/30/2011	684.63	CHASE BANK	1,101.63	Treasury	T 604700
DTXS08BK033866	DORCAS ANNETTE CRAWFORD	110.00	06/25/2013	06/25/2013	110.00	SECURITY BENEFITS	16,087.68	Treasury	T 604700
001	WILLIAM W HETTKAM TREASURY REGISTRY	110.00	06/25/2013	06/25/2013	110.00	SECURITY BENEFITS	16,087.68	Treasury	T 604700



SECURITY BENEFIT®

One Security Benefit Place · Topeka, KS 66636-0001
800.888.2461 · SecurityBenefit.com

July 29, 2014



LORETTA E HARRIS
3610 BLACKBERRY CT
MISSOURI CITY TX 77459-7010

Subject: Contract Number: 1301223234
Loan Dated: 512306

Dear Ms. Harris,

We are in receipt of your request dated July 18, 2014 to make partial payments on the referenced loan. Security Benefit has previously notified you that your loan has defaulted. Repayment procedures stated in the loan endorsement of your policy indicate that if a loan payment is not made by the end of the grace period, the entire loan balance is declared in default. These procedures are the result of Internal Revenue Service requirements.

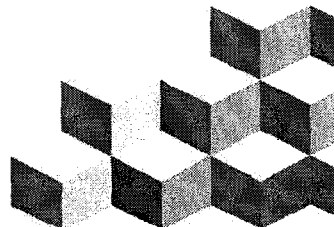
Because of these requirements, we are unable to accept partial payments toward the defaulted loan. One complete payment representing the entire loan balance is now due in order to pay off your existing loan.

Our commitment to service and the value we place on the supportive relationships we build with our customers continues to be our hallmark of success. If you should have any questions regarding the circumstances of your loans, please call our Customer Center at 1-800-888-2461.

Sincerely,
Client Service Specialist IV
Annuity Service Operations
Security Benefit

A3051

cc: R KILEY & J BELL





IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: ISAIAH L. HARRIS, JR.
LORETTA E. HARRIS

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§
§

CASE NO: 08-33746-H1-13 ENTERED
06/27/2013

DEBTOR(S)

CHAPTER 13

ORDER

CAME ON FOR CONSIDERATION, the Trustee's Motion to Deposit Funds into the Court Registry pursuant to 11 U.S.C. § 347 (a), and it is therefore

ORDERED that David G. Peake, the Chapter 13 Standing Trustee is authorized to deposit all unclaimed funds, now held by him, in this case in the amount \$16,087.68 owed to SECURITY BENEFITS into the Registry of the Court pursuant to 11 U.S.C. § 347 (a).

SIGNED this the

27th

day of

June 2013.


DEPUTY CLERK

April 23, 2015

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF TEXAS

515 Rusk Street

Houston, Texas 77002

Re: Isaiah L. Harris Jr.

Loretta E. Harris

Case # 08-33746-H1-13

Entered 06/27/13

Dear Court:

We are writing this letter requesting resolution concerning the Trustee's Motion to Deposit Funds into the Court Registry (unclaimed funds) in the amount of 16,087.68 which was deducted for a loan we held with Security Benefits.

We requested, thru our attorney Emil Sargent, to have Security Benefits added as a creditor to pay off this outstanding loan, but it was never accomplished. (see attached supporting documentation).

We are requesting that these funds that are being held as unclaimed funds be released to us so that we can repay the loan directly to Security Benefits as Loretta still has an annuity in effect with them.

Your guidance and help in this matter is highly appreciated.

We can be reached by email at isalahloretta@yahoo.com or phone at 281-772-5080.

Sincerely,



Isaiah L. Harris Jr



Loretta E. Harris

OFFICE OF DAVID G. PEAKE
CHAPTER 13 TRUSTEE
9660 HILLCROFT, STE 430
HOUSTON, TX 77096
TELEPHONE (713)283-5400
FACSIMILE (713)852-9084

01/14/2013

SECURITY BENEFITS
ONE SECURITY BENEFITS PLACE
TOPEKA, KS 66636

RE: ISAIAH L. HARRIS, JR. & LORETTA E. HARRIS - CASE NO: 08-33746-H1

TO WHOM IT MAY CONCERN,

IN ORDER TO HAVE A CLAIM ALLOWED AND PARTICIPATE IN THE DISTRIBUTION OF ANY DIVIDEND, A CREDITOR MUST FILE A CLAIM IN DUPLICATE WITH THE BANKRUPTCY CLERK AND COPIES OF THE CLAIM WITH THE DEBTOR (S) ATTORNEY AND THE TRUSTEE.

THIS CASE WAS CONFIRMED ON August 26, 2008; HOWEVER, WE HAVE NOT RECEIVED A PROOF OF CLAIM FROM SECURITY BENEFITS. THERE WILL BE NO FUNDS DISBURSED TO THE ABOVE CREDITOR (S) UNTIL A PROOF OF CLAIM IS FILED.

Very Truly Yours,

/s/ David G. Peake

OFFICE OF DAVID G. PEAKE,
9660 HILLCROFT, STE 430
HOUSTON, TX 77096
(713)283-5400

cc: Debtors:
ISAIAH L. HARRIS, JR.
LORETTA E. HARRIS
3610 BLACKBERRY CIRCLE
MISSOURI CITY, TX 77459

Debtors' Attorney:
EMIL SARGENT
723 MAIN ST STE 316
HOUSTON, TX 77002

OFFICE OF DAVID G. PEAKE
CHAPTER 13 TRUSTEE
9660 HILLCROFT, STE 430
HOUSTON, TX 77096
TELEPHONE (713)283-5400
FACSIMILE (713)852-9084

05/12/2010

SECURITY BENEFITS
ONE SECURITY BENEFITS PLACE
TOPEKA, KS 66636

RE: ISAIAH L. HARRIS, JR. & LORETTA E. HARRIS - CASE NO: 08-33746-H1

TO WHOM IT MAY CONCERN,

IN ORDER TO HAVE A CLAIM ALLOWED AND PARTICIPATE IN THE DISTRIBUTION OF ANY DIVIDEND, A CREDITOR MUST FILE A CLAIM IN DUPLICATE WITH THE BANKRUPTCY CLERK AND COPIES OF THE CLAIM WITH THE DEBTOR (S) ATTORNEY AND THE TRUSTEE.

THIS CASE WAS CONFIRMED ON August 26, 2008; HOWEVER, WE HAVE NOT RECEIVED A PROOF OF CLAIM FROM SECURITY BENEFITS. THERE WILL BE NO FUNDS DISBURSED TO THE ABOVE CREDITOR (S) UNTIL A PROOF OF CLAIM IS FILED.

Very Truly Yours,

/s./ David G. Peake

OFFICE OF DAVID G. PEAKE,
9660 HILLCROFT, STE 430
HOUSTON, TX 77096
(713)283-5400

cc: Debtors:
ISAIAH L. HARRIS, JR.
LORETTA E. HARRIS
3610 BLACKBERRY CIRCLE
MISSOURI CITY, TX 77459

Debtors' Attorney:
EMIL SARGENT
723 MAIN ST STE 300
HOUSTON, TX 77002



June 30, 2008

|||||
LORETTA E HARRIS
3610 BLACKBERRY CT
MISSOURI CITY TX 77459-7010

RE: Contract Number: 1301223234
Loan ID: 512306

Dear LORETTA E HARRIS:

Previously we sent a notice that your loan was at risk of defaulting. We have not received a payment to bring your loan current. Unfortunately, we must move your loan to a defaulted status to comply with IRS regulations regarding loans on tax qualified accounts.

The default of a loan causes the unpaid balance of the loan plus interest to be treated like a taxable distribution. At year-end, we will be required by the Internal Revenue Service to process a 1099R form reporting the value of the loan and interest.

If in the future you decide you would like to take out another loan, the defaulted loan would need to first be repaid. Unfortunately, this will not change the IRS requirements regarding the taxable status and reporting requirements of this loan.

Should you require additional information or assistance regarding your contract, please contact our National Service Center toll-free at 1-800-888-2461, or visit us on the web at www.securitybenefit.com.

Sincerely,

A handwritten signature in cursive script that reads "Pam Bradshaw".

Pam Bradshaw
2nd Vice President
Service Operations
Security Benefit Life Insurance Company

CC: CLARK E WALTER
DEARBORN & CREGGS INC
77 SUGAR CRK CTR BLVD STE 590
SUGAR LAND TX 77478-3672





SECURITY BENEFIT®

One Security Benefit Place · Topeka, KS 66636-0001
800.888.2461 · SecurityBenefit.com

January 29, 2016

KENNETH D TERRELL
ATTORNEY AT LAW
2601 CARTWRIGHT BLVD STE D BOX 268
MISSOURI CITY, TX 77459-2613

Subject: Contract: 1301223234, Loretta E Harris
Loan ID: 512306

Dear Mr. Terrel:

We are in receipt of the request to payoff the defaulted loan for the referenced annuity contract. We are pleased to provide you with the information you requested. We are committed to providing you with the superior service you deserve.

Loan Pay-off for Loan ID 512306 as of 1/25/2016 is \$23,255.37

After discussing the letter you have provided us with a manager, we have come to the conclusion that the client must pay off the loan in full in order to remove the default on this contract. Under the Bankruptcy Code the IRC 72(p) regulations require delinquent loan payments to be considered a deemed distribution if the payments are not made by the end of the cure period.

Security Benefit does not file Proof of Claims for bankruptcies. The debtor's obligation to repay a plan loan is not a "debt" because the obligation is essentially a debt to the debtor and not to the plan, and the fact that a default may result in tax and penalty consequences does not create a debtor-creditor relationship. The employer had a legal obligation to continue withholding the loan payments from the client's wages and submit them to Security Benefit. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 changed the treatment of plan loans so that bankruptcy does not automatically stay the withholding of wages to repay a loan from a plan and plan loans are not dischargeable.

Security Benefit appreciates the opportunity to serve you with your financial planning needs. If you have any questions or if we may be of additional assistance, please contact our Customer Service Center at 1-800-888-2461 between the hours of 7:00 am and 6:00 pm Central Standard Time.

Sincerely,
Client Service Specialist II
Service Operations
Security Benefit Life Insurance Company

AMR

cc: JACLYN E BELL